THE MANITOBA HUMAN RIGHTS COMMISSION
LA COMMISSION DES DROITS DE LA PERSONNE DU MANITOBA

connections

Equality of Opportunity and Freedom from Discrimination

Human rights settlement results in inclusive Gender Identity Guidelines for RETSD students and staff

Elizabeth Burgos and the River East Transcona School Division (RETSD) reached a voluntary resolution of her complaint filed with the Manitoba Human Rights Commission. Burgos' complaint alleged that RETSD discriminated against her transgender, elementary school-aged daughter Bella, when she was refused access to the girl's washroom in her school.

Bella's mother Elizabeth had three main goals when she filed the human rights complaint – education, training and trans rights based guidelines. The issue for her went far beyond the bathroom. "It's the big picture – being accepted and respected for who you are."

For Bella, it was very important for her to know that she wasn't alone and that she was accepted for who she is and safe. Her advice to people in the community who wanted to help was to visibly show their support:

"Put a rainbow sticker in your window or on the door to your classroom. A little gesture like that can go a long way – it's like a hidden little hug to someone who may really need it."

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Manitoba Human Rights Commission Will Appeal Court of Queen's Bench Ruling on Jurisdiction

The Manitoba Human Rights Commission will appeal the recent decision of the Manitoba Court of Queen's Bench in Northern Regional Health Authority (NRHA) v. Manitoba Human Rights Commission and Linda Horrocks.

The Court overturned a 2015 human rights adjudication decision that ordered the NHRA to reinstate Ms Horrocks in the workplace with lost wages and seniority and awarded her $10,000 in compensation for injury to dignity, because the NRHA had not reasonably accommodated Horrocks' disability-related needs.

The NRHA had asked the Court to review the 2015 decision arguing that Ms Horrocks' complaint under The Human Rights Code should have been pursued through a union grievance process, not through the Commission's complaint process that results in a public adjudication. Executive Director and Counsel Isha Khan stressed the importance of the Manitoba Human Rights Commission appealing this decision.

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The Rights Connection

By Isha Khan – Executive Director & Legal Counsel

Manitoba meets with human rights agencies from across the country

Chairperson, Yvonne Peters, and I were pleased to represent the Manitoba Human Rights Commission at the annual conference hosted by the Canadian Association of Statutory Human Rights Agencies (CASHRA), in Montréal, Québec earlier this month.

The theme of the conference was "The Fight for Equality- A Thousand Challenges." We left the conference deeply committed to furthering our efforts to implement the United Nations Declaration on the Rights of Indigenous People and the Truth and Reconciliation Commission's Calls to Action.

The message was very clear. We must work together as a community to continue the fight for equality. While human rights issues are addressed in different ways in different provinces, each commission is working towards the common goal of reducing barriers, and eliminating discrimination and harassment.

Sharing the Manitoba Human Rights Commission's challenges and successes with other human rights agencies was an opportunity to learn. It also left us feeling proud. Manitoba continues to be well-placed in the country as a leader on rights issues in many areas including the recognition of gender identity as a protected characteristic since 2012. We are encouraged that other commissions have looked to adopt aspects of our mediation and education programs in their jurisdictions.

Moving forward the Manitoba Human Rights Commission is pleased that commissions across the country are continuing to work together to be a national voice on human rights issues of interest to Canadians and that there is a forum to share ideas and operational challenges.

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The RETSD was the first school division in Manitoba to publish Gender Identity Guidelines earlier this year. Now, as a result of this settlement it has made further revisions that provide greater clarity and emphasis on the rights of transgender students and employees. Utilizing a rights-based approach to gender inclusion, the Guidelines indicate that RETSD is prepared to take an important step to acknowledge that transgender persons have equal rights and that their issues need not always be labelled by the school as requests to be accommodated by school administration.

This complaint was scheduled to be heard before an independent human rights adjudicator this summer; however, as the parties have reached a resolution, the hearing has been cancelled.

Burgos says that the emotional impact of going through the human rights complaint process was difficult; she would absolutely do it over again if necessary and would encourage others to do the same. Her message to other parents is "Your voice does matter. Not just for your child but for your entire community. Don't be scared to do what's right, just because it is difficult or uncomfortable."

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"This decision is serious for Ms Horrocks, but the impact goes well beyond this one individual. It could also limit options for all unionized workers in Manitoba to enforce their human rights. The decision has significant implications for how human rights are enforced in Manitoba." says Khan.

The Court's May 2016 judicial review decision was focused solely on whether or not the human rights adjudicator had the jurisdiction to hear and make a decision on the human rights complaint brought forward by Ms Horrocks. The decision did not examine whether or not the adjudicator's finding of discrimination and the remedy ordered were reasonable.

The Manitoba Human Rights Commission will file its Notice of Appeal in the upcoming weeks, which will outline the grounds for the appeal.

Board members recognized for their contributions

Congratulations to Commissioner Diane Dwarka who was recently recognized by the Community Legal Education Association (CLEA) by receiving a Public Legal Educaiton Award.

Diane is a former librarian at the Department of Education and Training Library and has provided reference services to all of Manitoba's teachers specializing in multicultural education, including anti-racism and human rights. She has held positions as past President of the Council of Caribbean Organizations of Manitoba, CLEA, Chair of Red River College Alumni, and the Women's Inter-Church Council of Winnipeg and others. Diane has received many awards in recognition for her work the YM-YWCA Women of Distinction Award , the Red River Distinguished Alumni Award, the Premier's Award for Volunteerism and the B'nai Brith Human Rights Award. She is President of the Manitoba Association for Multicultural Educators and of the Canadian Association for Multicultural and Intercultural Education and Past President of The Community Legal Education Association (CLEA). Diane is also an active volunteer for Folkloramma (an Ambassador in 2014) and at the Canadian Museum for Human Rights.

Commissioner Dr. Donn Short was also recently awarded an RH Award by the Winnipeg RH Institute Foundation. This award recognized academic staff members at the University of Manitoba who are in the early stages of their careers who display exceptional innovation, leadership and promise in their respective fields.

Donn conducts empirical research concerning the regulation of high schools in connection with the bullying of LGBTQ students or those perceived to be. Through a legal pluralist frame, he considers how formal state-issued law interacts with other normative but informal influences present in schools in predicting responses to anti-bullying law and policies. His research methods elevate the largely unheard voices of those impacted by bullying and/or those charged with addressing it.

Donn was recently part of a research team that published a report about LGBTQ-inclusive education from K-12. The Every Teacher Project is available online at http://egale.ca/wp-content/uploads/2016/01/Every-Teacher-Project-Final-Report-WEB.pdf

Congratulations to both recipients.